

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Call to Order: By **CHAIRMAN DAVE LEWIS**, on January 12, 2001 at 8:15 A.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Edith Clark (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary
Connie Welsh, OBPP

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Olmstead Decision Presentation
by Velveta Golightly Howell ,
Office of Civil Rights; DPHHS
Response
Executive Action: None.

{Tape : 1; Side : A; Approx. Time Counter : 0.4 - 23}

CHAIRMAN LEWIS introduced **Velveta Golightly Howell**, the regional manager of the Office of Civil Rights (OCR), Region 8, in Denver. Information distributed to Committee members included: **EXHIBIT(jhh09a01)**, an OCR Fact Sheet, **EXHIBIT(jhh09a02)**, a Department of Health and Human Services (DPHHS) Americans with

Disability Act(ADA) Plan for Continuing Compliance, **EXHIBIT(jhh09a03)**, ADA Questions and Answers, **EXHIBIT(jhh09a04)**, OCR information on enforcement priorities and where to file a complaint, **EXHIBIT(jhh09a05)**, a synopsis of the US Supreme Court Olmstead decision, **EXHIBIT(jhh09a06)**, a sheet indicating state progress in Olmstead implementation, and **EXHIBIT(jhh09a07)**, hyperlinks to the Olmstead web site. **Ms. Golightly Howell** gave a brief description of the organization of the Office of Civil Rights. The mission of OCR is defined by federal and statutory law and is to provide a mechanism for elimination of discrimination in federally funded programs as well as those programs operated by public entities or state and local governments. Its responsibilities include investigation of discrimination complaints; conducting compliance reviews; provision of technical assistance; conducting pre-grant reviews; and conducting outreach to provide information.

Ms. Golightly Howell went over the types of discrimination complaints that OCR accepts and how they receive the complaints. OCR enforces federally funded programs, services, and activities. **Ms. Golightly Howell** summarized the major laws that OCR enforces: Title 6 of the Civil Rights of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title II of the Americans with Disabilities Act; Title VI and XVI of the Public Health Services Act (Hill-Burton); Title IX of the Education Amendments of 1972; Public Health Services Act; and Howard Metzenbaum Multi-Ethnic Placement of 1994, amended in 1996.

Ms. Golightly Howell went over the conduct that is proscribed by the laws enforced by OCR: race discrimination, color discrimination, national origin discrimination, disability discrimination, and sex discrimination. A number of theories of proof are used to enforce these laws, including per se discrimination, disparate impact, and adverse impact.

Ms. Golightly Howell concluded her overview and introduce **Valarie Morgan-Alston, Chief Civil Rights Attorney for the Office of Civil Rights, Region 8.**

{Tape : 1; Side : A; Approx. Time Counter : 23 - 47}

Ms. Morgan-Alston began her presentation of the Olmstead decision, the core of which is premised on the belief that people with disabilities should not be separated and isolated from the rest of society, but should be provided with services and settings which allow them to interact with non-disabled persons to the fullest extent possible **EXHIBIT(jhh09a08)**.

Ms. Morgan-Alston gave the historical background for the Americans with Disabilities Act (ADA) and went over the steps by which it became law. The purpose of ADA is to provide a clear and comprehensive national mandate to eliminate discrimination on the basis of disability; the terms of which are very broad. She reviewed language in the act defining the prohibition, explaining the mandate, and defining an integrated setting.

Ms. Morgan-Alston reviewed the facts in the case on which the Olmstead decision was based. Two women, LC and EW with mental retardation and mental illness were voluntarily admitted to the Georgia Regional Hospital and confined to the psychiatric unit. In 1993, it was determined by those who treated LC, that it would be more appropriate for her to be treated in a community setting. In 1995, LC was still confined at the facility, and she filed suit to be placed in the community. By this time, it was determined that EW also would be more appropriately treated in the community, so she intervened to become a party in LC's suit. The lower district court ruled in favor of the two women.

The state of Georgia had argued that the state had inadequate funding, and their retention at the facility was the result of this inadequate funding not discrimination. The state also argued that it would fundamentally alter its programs if it was forced to immediately place these two women in the community. The court rejected both of these arguments and ordered LC and EW to be immediately moved into the community, and the state appealed the order.

At this point, it went to the 11th Circuit Court of Appeals, which affirmed the decision in large part, but remanded it for further findings regarding the state's cost-based defense. The state appealed before it was remanded; at which point, it went to the US Supreme Court. The US Supreme Court stated that the ruling reflected two judgments: 1) institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participation in community life; and 2) confinement in institutions severely diminishes the every day life activities of individuals, including family relations, social contacts, etcetera.

The key legal conclusions of the Olmstead decision were: 1) unnecessary segregation of people with disabilities in institutions is a form of discrimination under the ADA; and 2) individuals with disabilities have a civil right to receive services in the community instead of an institution.

{Tape : 1; Side : B; Approx. Time Counter : 0.3 - 49.4}

Before Olmstead, the question of where to provide services for people with disabilities was left to state determination. After Olmstead, the question became how and when programs and services should be provided in the community for these individuals. It is presumptively unlawful to segregate people with disabilities when they could be treated in the community.

The US Supreme Court ruling stated that states are required to provide community-based treatment for persons with disabilities when: 1) the state treatment professionals determine such a placement is appropriate; 2) the affected person does not oppose that community placement; and 3) the placement can be reasonably accommodated taking into account resources available to the state and the needs of others in that state with disabilities.

Ms. Morgan-Alston went over those covered by the decision, which includes those with a disability as defined by Title II of the ADA. States must make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modification would fundamentally alter the nature of the service program or activity.

Olmstead gives guidance in assessment of whether a reasonable modification is a fundamental alteration of state programs. There are three relevant factors in determination of a fundamental alteration: 1) cost; 2) availability of resources; and 3) the affect of such provision on the state's ability to meet the needs of other disabled individuals. It stated that consideration should be given to the state's need to maintain a range of facilities to serve people with disabilities and obligation to administer programs with an even hand. A state may be able to show that it is meeting its Title II, ADA obligations if: 1) it has a comprehensive, effectively working plan to place qualified individuals with disabilities in the most integrated setting; and 2) the waiting list for those services moves at a reasonable pace, not controlled by the state's objective of keeping institutions at full population.

This decision challenges states to prevent and correct inappropriate institutionalization and to review intake and admissions processes to assure that persons with disabilities are served in the most integrated setting.

The Department of Health and Human Services role is to work with states to: integrate persons with disabilities into the social mainstream; promote equality of opportunity and maximize individual choice; and craft responsible solutions that comply with the ADA. It is within that context that OCR investigates

complaints and provides technical assistance to the states. It is in the context of offering technical assistance on development of a comprehensive effectively working plan that OCR is here today.

Ms. Golightly Howell referred to a state Medicaid Director letter, dated January 14, 2000, **EXHIBIT(jhh09a09)**, which lays out the important factors in development of a comprehensive effectively working plan. There are certain standards that should be considered in development of the plans, but it should also be noted that there is no single plan model appropriate for all states **EXHIBIT(jhh09a10)**. While the decision does not say that a state must have a plan, it is in the state's best interest to develop such a plan in order to prevent litigation. **Ms. Golightly Howell** went over several court cases involving Olmstead plans **EXHIBIT(jhh09a11)**.

The factors involved in development standards of a state plan are: 1) have a plan; 2) involve those with disabilities in plan development; 3) ensure the plan has comprehensive assessment process; 4) ensure informed consent; 5) ensure transition to the community at a reasonable pace; 6) account for persons with disabilities currently served in the community who are in danger of institutionalization; 7) show the state is doing all it can to promote community-based services; and 8) ensure quality control mechanisms for community placement.

The assessment process should ensure that the state conducts thorough reviews of residents in institutions to determine appropriate placement, and determination should not be limited to what is currently available. There is nothing in the ADA which condones termination of institutional settings for people unwilling to handle or benefit from a community setting. At the same time, there is nothing in the Olmstead decision that prevents a state from discharging individuals from institutions when the state determines that such care is no longer appropriate. A state cannot be required to pay for or provide inappropriate services because an individual or that individual's guardian or parent desires those services. **Ms. Golightly Howell** reviewed other court cases regarding the appropriateness of people retained in institutions when circumstance no longer necessitated it. It is OCR's opinion that nothing in Olmstead precludes a state from closing or downsizing its institutions.

The plan must provide for informed consent. An individual may have to make several visits to an appropriate community setting in order to meet the standard of informed consent. The plan must have specificity, timetables, and consequences. And it must also

account for persons with disabilities in the community threatened with institutionalization.

{Tape : 2; Side : A; Approx. Time Counter : 0.3 - 9.2}

Olmstead says that states must develop community-based infrastructure or demonstrate that they have done all they can. States are not obliged to assume undue burden in pursuit of integrated services, however, nothing in Olmstead requires community placements to be cost neutral. The decision anticipates a reallocation of resources to fund community placement. Only if a state makes serious efforts to obtain funds can it make an effective argument that it is in compliance with Olmstead or that doing more is too costly or represents a fundamental alteration that threatens state ability to provide services in an even handed manner. One way to increase funding for community-based alternatives to institutional care is to ensure that all groups of children and adults who can be covered under Medicaid are included in the state's Medicaid plan. Under federal law, states have the option of expanding the number of people eligible for Medicaid.

The plan must also contain quality control mechanisms for community placements. Nothing done will be a net gain for people with disabilities if the quality of community setting is poor.

Ms. Golightly Howell concluded her remarks and introduced **Andrea Oliver, Equal Opportunity Specialist for the Office of Civil Rights, Region 8.**

{Tape : 2; Side : A; Approx. Time Counter : 9.2 - 45.6}

Ms. Oliver reviewed the Olmstead and ADA work group, which helped draft the state Medicaid directives, and also provided technical assistance to the regional offices. The work group keeps abreast of the issues occurring nationwide regarding the Olmstead decision and provides feedback to the states. The first Medicaid Director letter (Exhibit 9) lists the steps that states should take in order to create a plan, the second letter, **EXHIBIT(jhh09a12)**, contains questions and answers received nationwide, and **EXHIBIT(jhh09a13)**, outlines changes that states have made.

She reviewed the resources that OCR has to offer states as far as information and technical assistance is concerned. It has hired a contractor specializing in these issues to develop protocols to: help states develop community-based services; evaluate state Olmstead plans; evaluate effectiveness, strategies, outcome and compliance of state Olmstead plans; evaluate effectiveness of state assessment of the individuals who would like to be placed in communities; and evaluate state efforts to involve consumers in plan development. The contractor is also developing a

resource list of experts in the field of human service design, development, and financing for states to utilize in development of effective Olmstead plans.

As of the end of December, the OCR in Denver has received 61 Olmstead complaints. Of those, 6 complaints were from Montana, 4 of which allege systemic allegations, and 2 allege individual allegations. Two of the systemic complaints allege that the state fails to provide services to people who reside in nursing homes and the two institutions in the most integrated setting. With regards to these two complaints, OCR has issued formal notice letters to the state and has received written response. The other two systemic complaints allege that the state fails to ensure that persons who participate in sheltered workshops are provided with services in the most integrated setting. OCR has put the state on notice of receipt of the complaints and is currently drafting a data request letter. She went over the specific details of the cases.

{Tape : 2; Side : B; Approx. Time Counter : 2.5 - 10}

Ms. Oliver gave a quick overview of steps that other states in the region have taken regarding the Olmstead planning process. Wyoming is 1 of 5 states nationwide that have submitted draft plans and the only 1 in region 8 to do so. South Dakota has informed OCR that it does not need to draft a plan.

{Tape : 2; Side : B; Approx. Time Counter : 10 - 13.3}

Gail Gray, Director of the Department of Public Health and Human Services (DPHHS), stated that DPHHS is committed to the vision articulated in the requirements of the ADA and the Olmstead decision. It is committed to the intent of the legal actions and will carry out a legitimate process to identify the needs its programs and constituents have. The divisions of Senior and Long Term Care, Disabilities Services, and Addictive and Mental Disorders have already begun their investigations into the process, and DPHHS anticipates that it will have a comprehensive plan from those three divisions within the next six months. DPHHS as a whole is involved in investigating and discussing the global issues associated with this, for instance, dual eligibility, Medicaid eligibility, and licensing.

{Tape : 2; Side : B; Approx. Time Counter : 13.3 - 36.8}

CHAIRMAN LEWIS asked **Ms. Golightly Howell** for guidance on the issue of what a reasonable pace is. **Ms. Golightly Howell** and **Ms. Morgan-Alston** cited cases in which courts had ruled that a timely and reasonable pace was any where from 90 days to 7 years. At this time, there is no good guidance on what should be considered a reasonable pace.

SEN. WATERMAN mentioned that in 1993 Governor Racicot had a fairly specific plan regarding closure of Eastmont and Boulder. She suggested that maybe someone from DPHHS could address what happened to this at the appropriate time.

SEN. COBB asked who has to show the court the reasonableness, the state or plaintiff? **Ms. Morgan-Alston** responded that if it were to go to trial the burden would lie with the state to prove that its plan sets a reasonable pace. With a settlement agreement, it is different since the court tries to decide if the settlement agreement itself is reasonable. Both parties then make arguments about why the court should accept it. **SEN. COBB** said that once a state agrees to the specifics of a plan, it had better follow it or it is much easier to sue that it is not following its plan.

Ms. Golightly Howell responded that there were two prongs of the original decision, an effectively work plan and reasonable pace, and although reasonable pace is not defined by the court, she thinks that it wanted to allow the states some flexibility in coming up with what constitutes a reasonable pace given its consultation with other interested parties, including those representing the persons with disabilities. The two items should be considered in tandem when developing the Olmstead planning process.

SEN. COBB asked if the state could take into account finances.

Ms. Golightly Howell responded that the court discussed the state's ability to look at its financial status insofar as those funds available for the provision of services to all disabled persons in the state.

SEN. COBB asked **Ms. Golightly Howell** if waivers are no longer waivers, but entitlements. **Ms. Golightly Howell** responded that OCR is saying that waivers are a way to provide additional services, and the federal government may have had a position in the past, but Health Care Finance Administration (HCFA) realized coming into the Olmstead arena that many of its regulations constituted barriers, which made it difficult for states to take actions to ensure that persons were moved from institutions to communities in a timely fashion. It is in the process of rewriting several of its regulations and will entertain any waiver that a state wishes to submit.

SEN. WATERMAN asked how long it would take to get a waiver for home and community-based services waiver from HCFA, now. **Ms. Golightly Howell** answered that it is her understanding that the regional office has 90 days to either approve or request changes to an application. The waiver request is then sent to headquarters for clearance, which is where it gets backlogged.

She said that she will have Mary Kissel call **SEN. WATERMAN** directly to discuss this since she will be much more informative.

{Tape : 2; Side : B; Approx. Time Counter : 36.8 - 48.2}

CHAIRMAN LEWIS asked **Joe Mathews** to fill the Committee in on Governor Racicot's plan to close the institutions. **Joe Mathews, Administrator of the Disability Services Division (DSD)**, noted for the record that he was not the administrator in 1993. The state has worked on community integration for many years. In 1993, there was an attempt by the Governor to close the Eastmont facility in Glendive. In developing this proposal, the Department examined the population, determined ways to serve the population in the community, developed a severance package for employees, and presented it to the Legislature, which chose to not close the facility.

SEN. WATERMAN recollected that at that time there were 200 individuals between Eastmont and Boulder, and Governor Racicot's plan identified 92 or 93 individuals that could be served in the community. In doing this, the state would free up a substantial amount of money that would have decreased the waiting list several hundred people. When the Legislature chose to not do it, only 30 per year were removed from the waiting list. **Mr. Mathews** stated that the waiting list for people in developmental disabilities (DD) that have no services at all currently stands at 291, but there are also 1,100 people who receive some services, but not everything they need.

SEN. WATERMAN asked **Mr. Mathews** to talk about the legislative study regarding Travis D. **Mr. Mathews** stated that the study referred to was undertaken by DPHHS to determine whether one or both of the institutions should be closed. There was some other language dealing with alternative uses. DSD put together a task force headed by the Consensus Council from the Governor's Office for the Future Study. There was tremendous concern about the community-based infrastructure in DSD since community providers were struggling to meet the needs of people in community services all over the state. There were also concerns about direct care staff and other issues. Ultimately, the recommendation that came from that study was that things remain at status quo for another biennium.

{Tape : 3; Side : A; Approx. Time Counter : 0.2 - 4.6}

SEN. WATERMAN commented that as long as the state maintains community-based services as they are it will not have the resources do what it needs. She also commented that while the state may have made some progress over the years, the desire to keep a facility open is not defensible in court. A further

concern is whether there is a plan to move the individuals from the facility in Lewistown to the community.

Dan Anderson, Administrator of the Addictive and Mental Disorders Division, said that the clients in the Nursing Care Center in Lewistown are regularly reviewed. There is some level of discharge of individuals from there. **SEN. WATERMAN** requested a copy of the plan, review process, numbers of discharges, and increase in numbers. **Mr. Anderson** clarified that the plan is essentially the individual client's treatment plan, there is not necessarily a plan of discharging groups of clients. **SEN. WATERMAN** asked if there is a plan that surveys them regularly to see if they are interested in moving to the community - beyond the required physician review. **Mr. Anderson** said that he would have to ask staff about that.

{Tape : 3; Side : A; Approx. Time Counter : 4.6 - 29.4}

Bernadette Franks-Ongoy, Executive Director of the Montana Advocacy Program (MAP), distributed a position statement and explained that MAP is the designated protection and advocacy system for the state **EXHIBIT(jhh09a14)**. It is a requirement that a state have an independent designated protection and advocacy system to receive its federal allotment under the Developmental Disabilities and Assistance Bill of Rights Act. MAP runs five separate programs and receives federal money from all of these programs.

MAP filed the Travis D lawsuit in 1996, which is the case associated with Olmstead. In this lawsuit, MAP claimed that the state of Montana was violating the integration mandate of the ADA; the 14th amendment of the Constitution; and the Title XIX, Social Securities Act. The Olmstead Decision was filed on June 22, 1999, and MAP believes that it confirmed the fact that the state of Montana is violating peoples' rights by unnecessarily institutionalizing people with disabilities. Travis D only talks about people with DD, it does not involve people in mental health or long-term care facilities.

MAP was involved in the process which left the system as status quo, but it was a dissenting voice. It did not feel that status quo was good enough when developing the plan. In presentations before the Interim Committee on Children, Families, Health and Human Services, **SEN. WATERMAN** made her displeasure with the decision clear and asked MAP to go back to the drawing board. MAP took the direction from **SEN. WATERMAN** seriously and is involved in a work group with DPHHS to resolve the issues in the lawsuit to determine whether or not they can come together with a plan, with people, timelines, and consequences. During the Future Study, MAP put Travis D on hold informally. However, the

lawsuit is no longer on hold. There is no scheduling order from the court, but attorneys are working in discovery, records review, and gathering information.

Ms. Franks-Ongoy said that she believes that DPHHS is trying hard to resolve the issues, but that the system is underfunded. MAP believes that it must continue to move forward with the lawsuit on behalf of its clients. Underfunding of the system is not a good defense. There are individuals in Montana facilities similar to those in the Olmstead case, who remain institutionalized although treatment professionals consider community placement a more appropriate setting than the institution.

SEN. WATERMAN asked when the timeline on the latest process will conclude. **Ms. Franks-Ongoy** said that DPHHS and MAP will meet again on January 16, and they have agreed to look at the referral process into the community. They agreed to identify the 6 or 7 components of the lawsuit on which they can agree to settle. They are committed to meet every month.

SEN. KEENAN asked what the individuals who are being placed in the community want. Many people who have been institutionalized consider it their home. The presentation that he has heard suggests that the system needs to determine what is best for them, rather than their decision. There must be a guardian involved. **Ms. Franks-Ongoy** said that a guardian does not take the place of the choice of the concerned individual. In order for someone to make a truly informed choice, the individual must have an opportunity to go into the community and see what is there. To make the choice based on only what you know, may not satisfy the Olmstead test.

SEN. COBB asked if the Committee puts back the waiting list expansion and leaves the provider rates and direct care salaries would it be considered progress so the state could be left alone for a couple of years. **Ms. Franks-Ongoy** responded that it is progress, but she will not make that representation.

{Tape : 3; Side : A; Approx. Time Counter : 29.4 - 33.1}

Mr. Mathews remarked that the waiting list versus the infrastructure lays things out. DSD made a calculated priority to beef up its infrastructure with the increases wages for direct workers, since community providers are having a horrendous time trying to find people to do these jobs. Additionally, it started with a list of 41 as the number for waiver expansion and slightly reduced the wagers for direct care.

{Tape : 3; Side : A; Approx. Time Counter : 33.1 - 46}

Cary B. Lund, Legal Council for DPHHS, distributed the overall ADA self evaluation plan for DPHHS issued in fall of 1999 **EXHIBIT (jhh09a15)**, a letter to Constance Enzweiler, **EXHIBIT (jhh09a16)**, and a letter to **Velveta Golightly Howell, EXHIBIT (jhh09a17)**. He reviewed the self-evaluation of the programs, and its intent to cover all programs, although there are three divisions with Olmstead plans in process right now. At this time, they are focusing on the programs with institutional populations. It is hoped that the Department will be able to identify global issues after review of the current planning processes later this summer.

{Tape : 3; Side : B; Approx. Time Counter : 0.3 - 10}

Mr. Anderson stated that much of the discussion around Olmstead has to do with mental health services, but it is important that chemical dependency also be organized to treat people in the least restrictive setting also. The thrust of program development has been consistent with the goals of the ADA and the Olmstead decision to assist people to live independently integrated life styles. The planning has been done through the Mental Health Oversight Advisory Council (MHOAC). In terms of Olmstead, it has developed a set of principles on which the mental health program should operate and a series of 20 recommendations.

Mr. Anderson went over other parts of the Olmstead planning process in which AMDD engaged consulting firms, private providers and public input to examine and report on the entirety of the mental health system, children's services, the continuum of services for children, and coordination of co-occurring mental illness and chemical dependency services.

{Tape : 3; Side : B; Approx. Time Counter : 10 - 18.8}

Mr. Mathews distributed Disability Services Division Olmstead planning information **EXHIBIT (jhh09a18)**. He reviewed the composition of the planning team and the key principles involved in the planning: providing an opportunity for interested people, including consumers and their families; taking steps to prevent or correct current and future unjustified institutionalization of those with disabilities; ensuring availability of community integrated services; affording disabled individuals and their families the opportunity to make informed decisions regarding the best way to meet needs; and ensuring quality assurance, quality improvement and sound management support implementation of the plan. He asserted that integration of individuals into appropriate settings in the community is an issue with which the Division has been involved for a long time.

He discussed the waiting list in the context of Olmstead.

{Tape : 3; Side : B; Approx. Time Counter : 18.8 - 24.3}

SEN. WATERMAN asked **Mr. Mathews** for a list of those on the waiting list so the Committee would have an idea of how long it takes before people move through the process to receive service. She expressed the most concern for those receiving some service or those who receive an inappropriate service. **Mr. Mathews** said the Division has some of the information and will get something to her. **SEN. WATERMAN** asked if there about 1,400 on the list. **Mr. Mathews** said that 291 individuals receive no services, 1,100 receive some services, but not everything they need, which includes those in residential services waiting for services.

There was discussion over the waiting list and its geographic component as well as the number of individuals on the waiting list in the last session. **Mr. Mathews** stated that progress had been made since then.

{Tape : 3; Side : B; Approx. Time Counter : 28.6 - 45.5}

Mike Hanshaw, Administrator of Senior and Long Term Care

Division, distributed the Senior and Long Term Care Olmstead planning process **EXHIBIT(jhh09a19)** and a graph of nursing home expenditures and bed days **EXHIBIT(jhh09a20)**. The Medicaid home and community waiver, and the personal assistance program are the programs primarily influenced by Olmstead.

Mr. Hanshaw went over the decline in nursing home bed days and possible reasons for this, the rates, and funding of nursing homes. This Division has also been integrating people into community services. In regard to the Olmstead criteria, a review of the Division and its allocations of resources will show that the vast amount of new resources have gone into community services. He reviewed the Division's Olmstead planning process and activities.

{Tape : 4; Side : A; Approx. Time Counter : 0.3 - 2.4}

There was further discussion of steps taken by the Division in its Olmstead process.

Some housekeeping issues were taken care of.

ADJOURNMENT

Adjournment: 11:35 A.M.

REP. DAVE LEWIS, Chairman

SYDNEY TABER, Secretary

DL/ST

EXHIBIT (jhh09aad)